

REMARKS

This is responsive to the office action dated November 20, 2002. Because the shortened statutory period of response has been exceeded, a petition to revive for unintentional abandonment is enclosed with this amendment and the appropriate fees are authorized to be paid with applicants' deposit account. It is also noted that this amendment seeks to comply with the mandatory provisions of revised 37 C.F.R. §1.121 (Effective Date: July 30, 2003). Thus, each major segment of this response will begin on a separate page.

The application was very thoroughly examined. The Examiner is thanked for this thorough assessment of the application. It may be of interest to review the historical progress of the application.

During the time period of April 1, 2002 through October 4, 2002, applicants' principal attorney, Joel J. Hayashida, was on disability leave. In the 6 month time interval, the assignee of the applicants, The Clorox Company, experienced a many-fold increase in business and, as a result, the file containing this application was one of which the ability to track was severely hampered. This office action followed on November 20, 2002. No response was filed thereto. Only now can applicants address this action.

§112 Rejection

The action initially rejected all claims 1-7 for alleged indefiniteness. The action alleged:

"A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex part Wu*, 10 USPQ2D 2031, 2033 (Bd. Pat. App. & Inter. 1989). As to where broad language is followed by 'such as' and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

Claim 1 has been amended to remove the phrase, "preferably either by a dosing dispenser or in a combined cleaning tool which contains a cleaning head, a handle, a reservoir of the cleaning formulation mounted to said handle and a means for dispensing the cleaning formulation in a suitable direction relative to the cleaning head". Consequently, applicant's respectfully request that the Examiner withdraw this rejection.

Claim 1 was also rejected under the same grounds because of the use of the terms "of at least," and "about." These are terms of approximation and their use is sanctioned by the Courts, because, sometimes, this is as precise as the subject matter of the invention warrants. *See, S.C. Johnson & Son, Inc. v. Carter-Wallace, Inc.*, 225 USPQ 1022, 1041 (S.D.N.Y. 1985), *aff'd in part, vac'd in part and remanded* 229 USPQ 367 (Fed. Cir. 1986), *on remand* 231PQ 668 (S.D.N.Y. 1986). *See, also, Chisum on Patents, Vol. 5A, §18.07[2], fn 5, p. 18-670 to 18-671 (1999),*

Claim 1 was also rejected for use of the term "at least about 8." This term was used to describe the HLB number of a nonionic surfactant. This numerical terminology is well understood and accepted by those skilled in the art. It refers to the hydrophile-lipophile balance peculiar to defining nonionic surfactants. For example, applicants refer to in their specification to "*The nonionic surfactants used herein comprise surfactants which have a HLB of at least about 8. For a further discussion of HLB measurements, one should consult Popiel, *Introduction to Colloid Science* (1978), pp. 43-44 and Gerhartz, *Ullmann's Encyclopedia of Industrial Chemistry*, 5th Ed., Vol. A9 (1985), pp. 322-23, both of which are incorporated by reference thereto.*" (Specification, page 3, lines 4-8)

Without prejudice, applicants have amended claim 1, cancelled claim 2 and added claims 8-11 to fully describe the applicants' invention. This is strictly to clarify subject matter of the claims. The use of adjectives, such as "of at least" and "about" is a well-established practice in the patent laws. Claims 1-11 are therefore definite and claim appropriate subject matter. Thus, the rejection under 35 U.S.C. §112, 2nd paragraph, has been mooted and should be withdrawn.

§102(b) Rejections:

We now turn to the substantive rejections of the action. The action rejected claims 1-3, 6 and 7, as allegedly anticipated by Underwood. The amended claims and newly added are distinguishable from the invention of Underwood because Underwood does not teach the use of an anionic surfactant comprising a C₆₋₂₀ alkylphenyl oxide disulfonate. In order for a rejection under 35 U.S.C. §102(b) to be appropriate, “a single [prior art] source must contain all the elements of the claim.” *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). Since Underwood does not teach the use of a C₆₋₂₀ alkylphenyl oxide disulfonate in his detergent composition, applicants respectfully request the withdrawal of the rejection based on Underwood.

Secondly, all claims were also rejected as allegedly anticipated by Gabriel, U.S. 5,510,047. Gabriel teaches a detergent composition with a polymer thickening agent with a molecular weight from about 500,000 to about 10,000,000 (col. 3 lines 39-42). The present invention claims a water soluble polymer with a molecular weight of about 10,000 to 50,000. In addition, the composition of the present invention also includes an anionic surfactant comprising a C₆₋₂₀ alkylphenyl oxide disulfonate. Gabriel does not teach any detergent composition that includes both a water soluble polymer with a molecular weight of about 10,000 to 50,000 and an anionic surfactant comprising a C₆₋₂₀ alkylphenyl oxide disulfonate, therefore Gabriel’s invention does not anticipate the applicants’ invention. The combination of the specific polymers and anionic surfactants in applicants’ invention is not taught by Gabriel’s invention. With respect to newly added claim 11, the “consisting essentially of” language distinguishes applicants’ invention because it does not require the detergency builder or the enzyme stabilizing system required in Gabriel’s invention, according to claim 1. In view of the above analysis, applicants believe that the amended claims are in condition for allowance and respectfully request reconsideration of the claims by the Examiner.

CONCLUSION

In conclusion, it is respectfully urged that the claims, as supported by these remarks and the papers submitted, are allowable over the art of record. If, besides the various charging papers submitted, there is need for an additional fee, or a refund of any fees, the office is kindly directed to charge, or credit, deposit account 03-2270.

If the next action is other than to allow the claims, it is respectfully requested that the undersigned be granted the favor of a telephonic interview.

Respectfully submitted,



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